IN THE HIGH COURT OF JUDICATURE AT MADRAS

Dated: - 11.09.2006

Coram:-

The Hon'ble Mr. Justice P.SATHASIVAM
and
The Hon'ble Mr. Justice S.MANIKUMAR

Habeas Corpus Petition No.672 of 2006

Shanthi ... Petitioner

vs.

1. The State of Tamil Nadu
Rep. by its Secretary to Government,
Prohibition and Excise XII Department,
St. George Fort, Chennai-600 009.

2. District Magistrate and
District Collector,
Thiruvannamalai,
Thiruvannamalai District. ... Respondents

Petition under Article 226 of the Constitution of India for the issuance of Writ of Habeas Corpus to direct the respondents to produce the body of the petitioner's husband by name Shankar, s/o Egambaram Mudaliar, who is detained in the Central Prison, Vellore, before Court, pass an order to call for the records of the detention order imposed on him vide D.O.No.35/2006 C-2, dated 17.06.2006, passed by the second respondent, set aside the same and set the detenu at liberty.

For Petitioner : Ms.L.Poompavai
For Respondents : Mr. M.Babu Muthu Meeran,
Addl. Public Prosecutor.

(Order of the Court was made by P.SATHASIVAM, J.)

. . . . .

The petitioner challenges the detention order, dated 17.06.2006, detaining her husband by name Sankar as 'Bootlegger' as contemplated under the Tamil Nadu Prevention of Dangerous Activities of Bootleggers, Drug

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Offenders, Forest Offenders, Goondas, Immoral Traffic Offenders, Slum Grabbers and Video Pirates Act, 1982 (Tamil Nadu Act 14 of 1982).

2. Heard learned counsel for the petitioner as well as learned Additional Public Prosecutor for the respondents.

3. At the foremost, learned counsel for the petitioner submitted that there was inordinate delay in disposal of the representation of the detenu.

With reference to the said contention, the particulars furnished by the learned Additional Public Prosecutor show that the representation of the detenu was received by the Government on 30.06.2006, remarks were called for on 03.07.2006 and the same were received only on 10.07.2006. Thereafter, File was dealt with by the Under Secretary and Joint Secretary on 11.07.2006. Finally, the Minister for Prohibition and Excise passed orders on 14.07.2006. Thereafter, the rejection letter was prepared on 18.07.2006. The said letter was sent to the Central Prison for service on 19.07.2006 and served to the detenu on 21.07.2006.

4. It is seen that the representation of the detenu, dated 27.06.2006, was sent to the Government as well as to the Collectorate. The particulars show that the Collectorate received the copy on 29.06.2006 whereas the Government on 30.06.2006. Though the Government called for the remarks only on 03.07.2006; the details of the Collectorate show that, on receipt of the representation on 29.06.2006, on the same day, remarks were called for from the Sponsoring Authority. However, the Sponsoring Authority forwarded the remarks to the Collectorate only on 06.07.2006. There is no explanation for taking time by the Sponsoring Authority to submit the remarks till 06.07.2006. We hold that the delay caused at the instance of the Sponsoring Authority has prejudiced the detenu in considering his representation effectively. On this ground, the impugned order of detention is quashed.

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5. Accordingly, the Habeas Corpus Petition is allowed and the impugned order of detention is set aside. The detenu is directed to be set at liberty forthwith from the custody unless he is required in some other case or cause.
JI.

Sd/
Asst.Registrar

/true copy/

Sub Asst.Registrar

To

1. Secretary to Government, Prohibition and Excise Department, Fort St. George, Chennai 600 009.

2. District Magistrate & Dt.Collector, Tiruvannamalai.

3. The Superintendent, Central Prison, Vellore.
(In duplicate for communication to detenu)

4. The Joint Secretary to Government, Public (Law and Order)
Fort St. George, Chennai-9.

5. The Public Prosecutor, High Court, Madras.

RA(CO)
NM(27.10.2006)

HCP. No.672 of 2006

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